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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,521	08/29/2001	Tony N. Kfoury	CS10289	7363

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EXAMINER

CHIANG, JACK

ART UNIT

PAPER NUMBER

2642

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,521

Applicant(s)

KFOURY ET AL.

Examiner

Jack Chiang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's response and 131 Declaration filed on 04-08-04 have been entered. Claims 1-25 are original claims, claims 26-28 were added in an amendment dated 02-05-04. Claims 1-28 are still pending in this application.

2. A petition filed on 05-11-04 is treated as a Request for Reconsideration for finality of paper #6 mailed on 03-03-04.

After further consideration and in view of MPEP 714.01(e), the examiner believes that **Finality** of paper #6 should be **withdrawn** since amendment (page #5, filed 02-05-04) was not responsive to the Office action (paper #4, mailed 02-02-04), and the examiner failed to send a Notice of Non-responsiveness to applicant. Accordingly, the Examiner's Answer (paper #12, mailed 05-17-04) and the Advisory action (paper #9, mailed 04-22-04) are hereby **vacated**. Note that applicant should have filed a petition instead of Appeal Brief.

The 131 Declaration and response filed 04-08-04 (papers #7-8) have now been considered along with all attorney's arguments, and they are not persuasive for the following reasons:

First, the 131 Declaration is defective because there is no diligence at all in the Declaration. According to MPEP 715.07, under ESTABLISHMENT OF DATES, it states "the actual dates of acts relied on to establish diligence must be provided", see also MPEP 715.07(a). Further, diligence requires that applicants must be specific as to

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dates and facts. An applicant must account for the entire period during which diligence is required (Gould v. Schawlow, 363 F.2d 908, 919, 150 USPQ 634, 643, CCPA 1966). The period during which diligence is required must be accounted for by either affirmative acts or acceptable excuses. A 2-day period lacking activity has been held to be fatal (In re Mulder, 716 F.2d 1542, 1545, 219 USPQ 189, 193, Fed. Cir. 1983). The work relied upon to show reasonable diligence must be directly related to the reduction to practice of the invention in issue (MPEP 2138.06).

CLAIMS

102 Rejection

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 10, 14-28 are rejected under 35 U.S.C. 102(e) as being anticipated by **Nuovo et al. (US 6593914)**.

Regarding claim 1, Nuovo shows:

sensing an orientation of an input area (56) relative to a housing (52) (col. 3, lines 45-50);

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Configuring a display image orientation on a display (54, figs. 4-5) relative to the housing (52) as a function of the orientation of the input area (56) (col. 3, lines 60-63).

Regarding claim 7, Nuovo shows:

A housing (52);

An input area (56);

A display (54);

A sensor (col. 3, lines 45-50);

A display system changing an orientation on a display (54, figs. 4-5) relative to the orientation of the input area as a function of the orientation of the input area (56) (col. 3, lines 45-63).

Regarding claim 18, Nuovo shows:

A physically rotatable keypad (56);

A display and display drivers (see 54, figs. 4-5);

A sensor (col. 3, lines 45-50);

A processor for receiving the sensor signal and in response thereto modifying the display drivers for forming the display image on the display (54, figs. 4-5) with an orientation that is a function of the orientation of the keypad (see 54, 56 in figs. 4-5) (col. 3, lines 45-63).

Regarding claim 24, Nuovo shows:

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A housing (52);

A pivotal keypad (56) having at least first and second positions (see figs. 4-5);

A display (54) having a first display configuration when the keypad is in the first position (i.e. fig. 4);

The display (54) having a second display configuration when the keypad is in the second position (i.e. fig. 5).

Regarding claim 26, Nuovo shows:

A housing (52);

A keypad (56);

A display (54);

The display system (54) nearer the lower portion (left side) of the housing than the keypad (56), the keypad (56) nearer the upper portion (right antenna side) of the housing than the display (54).

Regarding claims 2-6, 8, 10, 14-17, 19-23, 25, 27-28, Nuovo shows:

The orientation of the input area (56) includes at least one of sensing the orientation through input through a dome sheet array (see fig. 3);

The physical rotation of the input area and the electron rotation of the display (figs. 4-5);

The sensing or position detecting sensor of the orientation of a keypad (56, col. 3, lines 45-52);

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Remapping keys based on a look-up table relative to key sensors (col. 3, lines 45-52, 26-44);

Modifying image forming display drivers in response to sensing the orientation of the keypad (i.e. figs. 4-5);

The 90 or 180 degrees rotation (col. 2, lines 36-43);

The keys and its key housing (see 56), key sensors and its sensor housing (84 in fig. 3);

The key sensors are one of the resistive, capacitive and bubble switches (keymat 82);

The keypad and the display in the first and second positions (figs. 4-5).

103 Rejection

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Nuovo in view of Wolf et al. (US 6349221)**.

Regarding claim 9, Nuovo shows the keypad (input area).

Nuovo differs from the claimed invention in that it does not explicitly teach that the keypad is a touchscreen.

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However, push-button type keypad and touchscreen type keypad are the most common types of keypads in electronic devices. This is also shown by Wolf's keypad (5, col. 2, lines 22-27).

Hence, the basic concept here is to provide a rotatable keypad, this is taught by Nuovo. Therefore, it would have been obvious for one of ordinary skill in the art to use Nuovo as it is, or to use a touchscreen keypad in Nuovo with/without the teaching of Wolf, because these types of keypads are considered to be alternative to each other, whether the touchscreen or the push-button type is used, they should be considered as a variation of the Nuovo's device, as long as Nuovo's basic concept of providing a rotatable keypad is substantially unchanged (see also col. 2, lines 22-27 in Wolf).

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nuovo in view of Baldoni (US 4267409)**.

Regarding claims 11-12, Nuovo shows the keypad (56).

Nuovo differs from the claimed invention in that it does not explicitly show the details of the keypad, such as the keypad support includes projections, the keypad membrane includes notches, and the keypad disc includes tabs and slot.

However, Baldoni, in a keypad, teaches providing a keypad support includes projections (12, 15), a keypad membrane includes notches (22), and a keypad disc includes tabs and slots (14 for receiving 15).

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Hence, the concept of providing a keypad is well taught by Nuovo, therefore, it would have been obvious for one of ordinary skill in the art to adapt the method of Baldoni in Nuovo when assembling a keypad, this simply can be considered as an intended use of Baldoni, or a variation of Nuovo, as long as the basic concept of providing a rotatable keypad is substantially the same.

8. Applicant's arguments filed 04-08-04 have been fully considered but they are not persuasive. See comments above.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

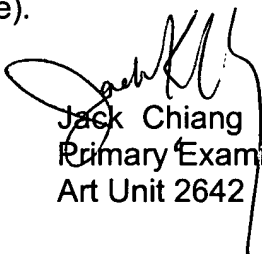
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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